

AMENDED IN ASSEMBLY JUNE 28, 2002

AMENDED IN SENATE MAY 23, 2002

AMENDED IN SENATE MAY 7, 2002

AMENDED IN SENATE APRIL 25, 2002

## SENATE BILL

No. 1690

### Introduced by Senator Margett

February 21, 2002

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An act relating to criminal procedure, and declaring the urgency thereof, to take effect immediately.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1690, as amended, Margett. Criminal procedure: persons committed to medical facilities: study.

Existing law establishes procedures for determining a person found *not* guilty by reason of insanity has been restored to sanity, and procedures for placing persons who have been committed to medical institutions by criminal procedures to obtain outpatient status.

This bill would direct the ~~State Department of Mental Health~~ *Legislative Analyst's Office* to undertake a study regarding the application and impact of those procedures, *and the potential advantages and disadvantages of certain proposed procedures*, as specified. This bill would require a report to the Legislature not later than January 1, 2004.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: ~~yes~~ *no*. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. (a) ~~The State Department of Mental Health~~  
2     *Legislative Analyst's Office*, in collaboration with representatives  
3     from the Judicial Council, district attorneys, public defenders,  
4     local mental health agencies, the counties, and mental health  
5     advocates shall undertake a study of the current application and  
6     impact of the process described in Section 1026.2 *of the Penal*  
7     *Code* pertaining to how persons found *not* guilty by reason of  
8     insanity are judicially restored to sanity. This study shall examine,  
9     but not be limited to, the following issues, from the standpoint of  
10    the existing or potential impact on both government processes and  
11    on patients affected by this section:

12    (1) The current use of and practices for applications brought  
13    pursuant to Section 1026.2 *of the Penal Code*, including, but not  
14    limited to, how many applications are brought annually statewide  
15    and by county, the disposition of these applications, the estimated  
16    costs of handling these applications, and how many times  
17    applicants previously have filed applications pursuant to Section  
18    1026.2 *of the Penal Code*.

19    (2) The incidence of frivolous applications, as determined by  
20    objective criteria identified in the study.

21    (3) The potential advantages and disadvantages of increasing  
22    the minimum time for inpatient status from 180 days to 365 days,  
23    or any other increase contemplated or recommended by the study.

24    (4) The potential advantages and disadvantages of requiring  
25    that the local mental health director concur in the restoration of  
26    sanity.

27    (5) The potential advantages and disadvantages of requiring  
28    that a patient cooperatively, continuously, and regularly engage in  
29    treatment plans provided by both the state hospital and the local  
30    conditional release program staff while in inpatient treatment.

31    (6) The potential advantages and disadvantages of increasing  
32    the current one-year time period for filing an application for a  
33    restoration of sanity hearing after a denial to up to five years, or  
34    any other increase contemplated or recommended by the study.

35    (7) Any cost avoidance, including for counties, courts,  
36    prosecutors, defense attorneys, mental health, or others for cases  
37    that do not result in a significant number of days that an applicant  
38    spends in the conditional release program.

1 (b) The ~~department~~ *Legislative Analyst's Office* shall complete  
2 a written report comprised of the study required by this section,  
3 and provide a copy of it to the Legislature, no later than January  
4 1, 2004.

5 SEC. 2. This act is an urgency statute necessary for the  
6 immediate preservation of the public peace, health, or safety  
7 within the meaning of Article IV of the Constitution and shall go  
8 into immediate effect. The facts constituting the necessity are:

9 In order to facilitate implementation of corrective procedures  
10 regarding outpatient and restoration of sanity procedures, it is  
11 necessary that this act take immediate effect.

